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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,989	12/31/2003	Rainer W. Lienhart	42390.P18599	9974

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EXAMINER

WON, MICHAEL YOUNG

ART UNIT PAPER NUMBER

2155

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/749,989

Applicant(s)

LIENHART ET AL.

Examiner

Michael Y. Won

Art Unit

2155

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5, 7-11, 14-18 and 21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached Document.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER

Response to Arguments

1. The applicant(s) argues that Bekritsky does not teach the limitation, “wirelessly transmitting the first node recorded local time... to at least the second node” or “receiving the first node recorded local time at the second node”.

One of ordinary skill in the art would agree that when a comparison of arrival time occurs between two wireless devices as taught by Bekritsky (see pg.1, [0006]: “A first arrival time is compared to a second arrival time to determine a correlated arrival time data”, information must inherently be shared there between to determine the $TDOA_{A/B} = t_B - t_A$. Therefore since Bekritsky teaches of wireless devices (see title: “Wireless Clock Synchronization” and pg.1, [0002]: “The present invention relates to a method and system for synchronizing the clocks of wireless devices”), when Bekritsky teaches synchronizing or comparing clocks of wireless devices, he is implying wirelessly sharing or transmitting information there between, in this case the information is recorded local times.

Lovett does not need to remedy this limitation because Bekritsky implicitly teaches this limitation.

2. The applicant(s) argues that Lovett does not teach “synchronizing the first and second node timing models with a global clock associated with the first node and the second node.

Lovett explicitly teaches this limitation (see col.10, lines 6-8).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, although there is "no reason to dynamically adjust the receivers", clearly there is ample reasons to modify a partition in the receivers such as in situations to modify processor resources of the receiver to maximize receiver processor efficiency as taught by Lovett (see col.1, lines 50-52). Therefore one of ordinary skill in the art would employ the teachings of Lovett because by synchronizing to a global clock, local clocks can be synchronized without affecting the operation of running clocks on other nodes.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Furthermore, Bekritsky teaches on page 2, [0015] "To accurately determine the location of the moving devices, the clocks at all receiving stations must be synchronized". As such not only is there a need to synchronize all the nodes together, but reference clock or primary clock (global clock) is necessary to begin the synchronization of all node (see pg.2, [0021]: "the clock of one of the receiving stations is used as a reference clock" (global clock), "and all the clocks of he other receiving station are corrected to match the frequency and the start time of the reference clock".

3. The applicant(s) argues that Bekritsky does not teach, "synchronizing sample numbers of multimedia stream on the second node with the second node timing model" as recited in claim 3 and similarly recited in claims 10 and 17.

In response, Bekritsky teaches on page 2, [0021] that, "the slopes and intercepts are continuously computed and updating" which clearly suggests synchronizing sample numbers of stream. The "multimedia stream" is not given patentable weight because there is no functionality related to this type of stream to teach away from the prior art. The type of stream is subjective and does not patentable distinguish the invention.

4. For the reason above claims 1-5, 7-11, 14-18, and 21 remain rejected and pending.

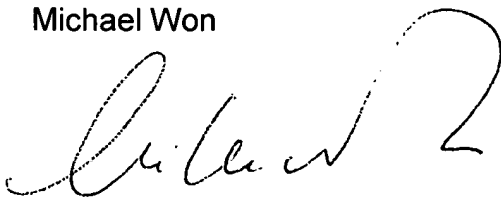
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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y. Won whose telephone number is 571-272-3993. The examiner can normally be reached on M-Th: 7AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Won

A handwritten signature in black ink, appearing to read 'Michael Won', with a large, stylized flourish at the end.

August 2, 2006